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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/224,219	12/30/1998	S. VINCENT BIRLESON	45981-P016US	3976

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DALLAS OFFICE OF FULBRIGHT & JAWORSKI L.L.P.  
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EXAMINER

GESESSE, TILAHUN

ART UNIT

PAPER NUMBER

2684

DATE MAILED: 07/25/2003

15

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/224,219

Applicant(s)

BIRLESON, S. VINCENT

Examiner

Tilahun B Gesesse

Art Unit

2684

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) 2,7 and 28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) 38-53 is/are allowed.
- 6) ☒ Claim(s) 1,3-6,8-27 and 29-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/15/03 has been entered.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3-6, 8-27, 29-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caporizzo et al (6,014,547) "caporizzo" in view of Yamashita et al (4,419,768) "Yamashita".

As to claims 1 and 32-33, Caporizzo discloses a tuner (11) for extracting specific signals from a set of signals on a carrier (RF input, col.2 lines 42-58) wherein the set of signals have at least one of a set of measurable characteristics, (a settop terminal (12), which measures the input RF carrier signal power level at several frequencies with the CATV RF input bandwidth upon system power up, col. 3 lines 34-54). Caporizzo discloses means (14,16) for determining from a measurement of

the measurable characteristics that are present in a particular set of signals certain desirable tuner operating characteristics, (col. 3 lines 34-54 and fig.2).Caporizzo discloses means operable under control of said determining means for changing the operating characteristics of said tuner, (col.3 lines 1-14, col.3 lines 34- 44,fig.5). Caporizzo does not disclose expressly means for changing power consumption levels with respect to tuner components for optimize tuner power level. However, Yamashita discloses a tuner is controlled to reduce power consumption by switching to UHF channels and to optimize to level sufficient to compensate the loss introduced to tuning components, (col. 4, line 45-col.5 line 1 and fig.1). Since, Caporizzo , with similar field of area, the power up mode 200 may be entered periodically to ensure that the equalization , attenuation and gain control are optimally tailored to the current condition of the CATV transmission network (col. 5, lines 36-47), therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Caporizzo and Yamashita in controlling power consumption to optimize the reception of selected signals , as taught by Yamashita, in order to acquire best reception of by adjusting the power consumption of the tuner.

As to claims 4,8,19-20, Caporizzo et al disclose means for changing power levels with respect to said tuner components,(abstract).

As to claim 3, Caporizzo et al disclose means for determining optimum operating characteristics for said tuner depending upon said determined operating characteristics, (abstract).

As to claim 5, Caporizzo et al disclose the tuner is constructed on a single

substrate (fig.2).

As to claims 6,9 18 and 26,29, Caporizzo et al disclose the method of operating a tuner (col. 3 line 62-col.4 lines 7). Caporizzo et al disclose assessing from time to time the incoming signal environment wherein an assessment of said incoming signal environment is a function of signals being processed by said tuner, (col.5 lines 41-44). Caporizzo et al disclose based on the assessment environment selecting an operating level for said tuner (col.5 lines 44-47 ) ; and Caporizzo et al disclose setting the operation of said tuner consistent with said selected operating level (col.4 lines 58-col.5 line 23). Caporizzo does not disclose expressly the selecting an optimum power consumption level for said tuner. However, Yamashita discloses a tuner is controlled to reduce power consumption by switching to UHF channels and to optimize to level sufficient to compensate the loss introduced to tuning components, (col. 4, line 45-col.5 line 1 and fig.1). Since, Caporizzo , with similar field of area, the power up mode 200 may be entered periodically to ensure that the equalization , attenuation and gain control are optimally tailored to the current condition of the CATV transmission network (col. 5, lines 36-47), therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Caporizzo and Yamashita in controlling power consumption to optimize the reception of selected signals , as taught by Yamashita, in order to acquire best reception of by adjusting the power consumption of the tuner.

As to claims 10-11, Caporizzo et al disclose the determining step includes taking signal measurements of the signal being processed by the tuner (abstract).

As to claims 12,21, Caporizzo et al disclose receiving from external source to the tuner (RF input of CATV fig.1).

As to claims 13, 22,Caporizzo et al disclose monitoring the RF input and the inband receive signal strength (microprocessor) (fig.2).

As to claims 14-15 and 17,23, Caporizzo et al disclose adjusting the number of components that are active at any particular time (col.4 lines 15-28).

As to claims 16, 24-25, Caporizzo et al disclose the channel sweep and static method at different times (col.5 lines 30-36).

As to claim 27, Caporizzo et al disclose a tuner comprising the circuit for determining tuner operating characteristics from knowledge of the signals being processed by the tuner (fig.2) and at least one circuit for adjusting the operating characteristics in accordance with said determining the circuitry fig.5) .

As to claim 29, Caporizzo et al disclose adjusting the number of components that are active at any particular time (col.4 line 55-col. 5 line 23).

As to claim 30, Caporizzo et al disclose receiving from external source (RF input of CATV),fig.1.

As to claims 31, 34-37. Caporizzo et al disclose the channel sweep and static method at different times (col.5 lines 30-36).

***Allowable Subject Matter***

4. Claims 38-53 are allowed over the prior art. The following is an examiner's statement of reasons for allowance: the instant invention is directed to tuner system self adaptive to signal environment. The independent claim unique structural feature "

environment assessment means for providing input signal environmental assessment,  
means for determining a power level from the input signal environmental assessment  
information, wherein the said power level determining means is coupled to said input  
signal environmental assessment means for communication of said input signal  
environmental assessment information ,means for controlling power level information  
and means for tuning a selected signals from set of signals.” The prior art Caporizzo et al (us 6,014,547) fail to the underlined limitation render obvious.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1,3-6,8-27,29-37 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Dang et al (5,949,472) disclose method and apparatus for tuning channels (abstract).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tilahun B Gesesse whose telephone number is 703-308-5873. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 703-308-7745. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-6306 for regular communications and 703-308-6296 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.

Art Unit 2684

Tilahun Gesesse

July 21, 2003

A handwritten signature in black ink, appearing to read 'Tilahun Gesesse', written in a cursive style.